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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,289	12/08/2003	Ronald T. Butler	12,559	1588

7590 12/02/2004  
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EXAMINER

REIS, TRAVIS M

ART UNIT PAPER NUMBER

2859

DATE MAILED: 12/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<p align="center"><b>Office Action Summary</b></p>	<p><b>Application No.</b></p> <p align="center">10/729,289</p>	<p><b>Applicant(s)</b></p> <p align="center">BUTLER ET AL.</p>	
	<p><b>Examiner</b></p> <p align="center">Travis M Reis</p>	<p><b>Art Unit</b></p> <p align="center">2859</p>	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 December 2003 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| <p>1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br/> Paper No(s)/Mail Date ____.</p> | <p>4) <input type="checkbox"/> Interview Summary (PTO-413)<br/> Paper No(s)/Mail Date. ____.</p> <p>5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>6) <input type="checkbox"/> Other: ____.</p> |
|--|---|

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "23" has been used to designate both shock absorbers and a direction in Figures 1, 5, & 6; reference character "51" has been used to designate both a hub and an edge in Figure 1; & reference character "60" has been used to designate both set screws and bolts in Figures 1, 1a, 5 & 6. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### *Specification*

2. The disclosure is objected to because of the following informalities:

On page 8, line 26, "35" should be ---25---.

Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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4. Claims 1-3 rejected under 35 U.S.C. 102(b) as being anticipated by Pavitt (U.S. Patent 4271599).

Pavitt discloses a multiple gauge assembly (10) comprising in combination a first adjustable gauge (11) elongated in a first direction, a second adjustable gauge (16) elongated in a second direction, said first and second directions being mutually perpendicular, and a third adjustable gauge (15) elongated in a third direction, said third direction being substantially parallel to said second direction. Furthermore, it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed (i.e. to establish a rim edge radial direction; to establish a rim offset dimension; to establish a tire peripheral dimension; whereby clearance between the wheel and said vehicle structure can be predictively ascertained, as during wheel turning, prior to installation of the wheel on the mount) does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. Ex parte Masham, 2 USPQ2d 1647 ( 1987 ).

With respect to the preamble of the claims 1-3: the preamble of the claim does not provide enough patentable weight because it has been held that a preamble is denied the effect of a limitation where the claim is drawn to a structure and the portion of the claim following the preamble is a self – contained description of the structure not depending for completeness upon the introductory clause. Kropa v. Robie, 88 USPQ 478 ( CCPA 1951).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the

claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 4-9 rejected under 35 U.S.C. 103(a) as being unpatentable over Pavitt in view of Rish (U.S. Patent 3101553).

Pavitt discloses all of the instant claimed invention as stated above in the rejection of claims 1-3, including carriers (13,14) supporting said second and third gauges for slidable linear adjustable interconnected movement in second and third directions being substantially perpendicular to the first gauge (Figure 1), wherein said gauges are considered "interconnected" in as much as said second and third gauges are interconnected in applicant's invention as shown in the Figures 1-6.

Pavitt does not disclose a carrier supporting said first gauge for slidable linear adjustable interconnected movement.

Rish discloses a parallel gauge with a first carrier (48) for slidable linear adjustment of gauge (54), perpendicular to other sliding linear adjustable gauges (62) in order to properly adjust the gauge to any type of wheel (col. 3 lines 50-52). Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention was made to add the carrier disclosed by Rish to the first gauge disclosed by Pavitt in order to properly adjust the gauge to any type of wheel.

8. Claims 10 & 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pavitt in view of Mason (U.S. Patent Re. 33302).

Pavitt discloses all of the instant claimed invention as stated above in the rejection of claims 1-3, but does not disclose a connector plate carrying said assembly, and configured for and connected by bolt-on connection to said vehicle wheel mount, said mount turnable with the wheel about said pivot axis.

Mason discloses a macpherson strut alignment gauge and straightening apparatus (25) with a mounting/connector plate (26) for configured for and connected by bolt-on connection to a wheel support flange (23), said flange turnable with the wheel about said pivot axis (Figures 3 & 4). Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention was made to add the mounting/connector plate disclosed by Mason to the gauge disclosed by Pavitt in order to steadily secure the gauge while measuring.

9. Claims 11 & 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pavitt & Rish as applied to claims 4-9 above, and further in view of Mason.

Pavitt & Rish disclose all of the instant claimed invention as stated above in the rejection of claims 4-9, but do not disclose a connector plate carrying said assembly, and configured for and connected by bolt-on connection to said vehicle wheel mount, said mount turnable with the wheel about said pivot axis.

Mason discloses a macpherson strut alignment gauge and straightening apparatus (25) with a mounting/connector plate (26) for configured for and connected by bolt-on connection to a wheel support flange (23), said flange turnable with the wheel about said pivot axis (Figures 3 & 4). Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention was made to add the mounting/connector plate disclosed by Mason to the gauge disclosed by Pavitt & Rish in order to steadily secure the gauge while measuring.

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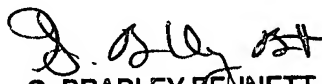
**Conclusion**

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Graham discloses a bevel and square (U.S. Patent 70547). Osborn discloses a carpenter's combination tool (U.S. Patent 307321). Brown discloses an automatic indicator for truing wheels (U.S. Patent 603782). Gammeter discloses tire calipers (U.S. Patent 1245213). Duby discloses a gage for vehicle wheels (U.S. Patent 1324388). MacMillan discloses a wheel alignment apparatus (U.S. Patent 3135052). Dent discloses an apparatus for checking the tracking of the front wheels of a motor vehicle (U.S. Patent 3305936). Edman discloses a wheel and hub gauge (U.S. Patent 5412878). Marios discloses a tile fitting device (U.S. Patent 5617642). Weinmann discloses a wheel offset measure (U.S. Patent 6035729). Utsuki et al. disclose a toe in gauge JP 63165705). Schonherr discloses an adjustable gauge for resetting the camber of the plane of the wheel receptacle of a vehicle (DE 3902337 C1). Hodges et al. discloses a wheel alignment apparatus (GB 2176618 A).

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Travis M Reis whose telephone number is (571) 272-2249. The examiner can normally be reached on 8--5 M--F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306 for all communications.

Travis M Reis  
Examiner  
Art Unit 2859

  
G. BRADLEY BENNETT  
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tmr  
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